

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In Re:

Susan D. Workman

Debtor

CASE NO. 17-14630

CHAPTER 13

JUDGE ARTHUR I. HARRIS

(383 E 327TH ST, Willowick, OH 44095)

**RESPONSE TO MOTION TO MODIFY PLAN AND OBJECTION TO
CONFIRMATION OF AMENDED PLAN (DOC 23 AND 25)**

THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWALT, INC., ALTERNATIVE LOAN TRUST 2004-28CB, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2004-28CB by and through its servicing agent, Shellpoint Mortgage Servicing (hereafter “Creditor ”), for its Objection to Debtor’s Chapter 13 Plan states as follows:

1. Creditor holds a first mortgage on residential real estate owned by Debtor and occupied as a primary residence by the Debtor located at 383 E 327TH ST, Willowick, OH 44095;
2. Creditor filed a Proof of Claim on the mortgage claiming a total debt of \$133,958.86, arrearage of \$58,021.66, and a total post-petition payment of \$910.40. No objection to Creditor’s claim has been filed to date;
3. Debtor’s Plan provides for monthly payments to the Trustee of \$500.00 for 60 months. This amounts to just \$30,000.00 total funding available to pay the costs of administration, Creditor’s arrears and all other claims;
4. Debtor’s Plan contains a special provision section indicating that an adversary proceeding will not be filed on this case for two years. Creditor specifically objections to the time-

frame set out in Debtor's plan as it an unnecessary amount of time to file an adversary proceeding. Debtor's Plan violates 11 USC §1322 (b) (2) because it directs the Trustee to withhold payment on the mortgage arrearage claim of Creditor unless an amended plan or Motion to Modify plan is filed with the Court. It is improper to direct the Trustee to refrain from paying the arrearage on a Proof of Claim.

5. Debtor's Plan violates 11 USC §1322 (b)(5) because it does not provide for Creditor's arrears to be paid within a reasonable amount of time;
6. Debtor's Plan violates 11 USC §1322(d) because it will take longer than 60 months to fully pay Creditor's arrears.
7. Debtor's Plan violates 11 USC §1325 (a)(5) because Creditor is a holder of a secured claim and Creditor has not accepted the plan.

Wherefore, Creditor objects to the Confirmation of Debtor's Plan.

Respectfully submitted,
Clunk, Paisley, Hoose Co., LPA

/S/ LeAnn E. Covey

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CERTIFICATE OF SERVICE

I certify that on December 20, 2017, a true and correct copy of the Response to Motion to Modify and Objection to Confirmation of Plan was served:

Via the court's electronic case filing system on these entities and individuals who are listed on the court's electronic mail notice list:

Brian D. Flick on behalf of Susan Workman, at bflick@dannlaw.com and wkaster@dannlaw.com.

Craig H. Shopneck, Chapter 13 Trustee, at cshopneck@ch13cleve.com

And by regular U.S. mail, postage prepaid, on:

Susan Workman, at 383 E 327TH ST, Willowick, OH 44095

Cuyahoga County Treasurer, at 2079 East 9th Street, Cleveland, OH 44115

Clunk, Paisley, Hoose Co., LPA

/S/ LeAnn E. Covey

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